

**BEFORE THE HUMAN RIGHTS COMMISSION
FOR MONTGOMERY COUNTY
Case Review Board**

**OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6660 (240) / Fax (240) 777-6665**

RUTH TURNQUIST

Complainant

Earl E. Shamwell, Jr., Esquire
Sharon R. Herron, Esquire
Attorneys for Complainant

v.

ROCKVILLE NURSING HOME

Respondent

Sharon E. Conners, Esquire
Attorney for Respondent

Human Rights Commission
HRC No. E-05888
OZAH Referral No. HR 17-02

* * * * *

Before: Martin L. Grossman, Hearing Examiner
Director, Office of Zoning and Administrative Hearings

**HEARING EXAMINER’S REPORT AND RECOMMENDATION OF DISMISSAL OF
THE CASE BASED ON THE PARTIES’ JOINT STIPULATION OF
DISMISSAL WITH PREJUDICE**

The purpose of this Report and Recommendation is to close the record and to recommend that the Case Review Board dismiss the above-captioned matter pursuant to the parties’ executed Stipulation of Dismissal with Prejudice, dated August 21, 2017 (“Stipulation of Dismissal”). Docket No. 16. The hearing had been scheduled for September 14, 2017. Docket No. 8.

The above-captioned complaint alleges unlawful discrimination in employment on the basis of age, sex and race. Docket No. 2. The Respondent denies these allegations. The Director of the Office of Human Rights (OHR) determined that reasonable grounds exist to believe that a

violation of Chapter 27 of the Montgomery County Code has occurred (Docket No. 3). The Director also certified that conciliation in OHR has failed (Docket No. 4). By Order dated February 21, 2017 and delivered to the Office of Zoning and Administrative Hearings (OZAH) on February 27, 2017, the Case Review Board of the Montgomery County Commission of Human Rights (MCCHR) referred the above-captioned complaint to OZAH for the purpose of conducting a public hearing under the provisions of Montgomery County law, and thereafter submitting a written Order and Recommendation to the Case Review Board. Docket No. 1. OZAH accepted this referral and has captioned the matter as Case No. HR 17-02. On March 3, 2017, the Hearing Examiner issued a Scheduling and Procedures Order, setting up an initial scheduling conference and raising a question regarding the fact that Complainant's attorney appeared not to be a member of the Maryland Bar.

A pre-hearing conference was held on March 22, 2017, and attended by the Complainant (Ruth Turnquist), her attorney, Earl E. Shamwell, Jr., Esquire, and by the Respondent's counsel, Sharon E. Conners, Esquire. Maryland attorney Sharon R. Herron, Esquire, also participated on the Complainant's behalf by telephone. On March 30, 2017, attorney Herron filed a formal appearance on behalf of the Complainant (Docket No. 7), and indicated that she would file with the appropriate Maryland court to have Mr. Shamwell admitted *pro hac vice* for this case.

This matter was scheduled for public hearing before the Hearing Examiner on September 14, 2017, in a revised Scheduling Order and Hearing Notice dated April 7, 2017. Docket No. 8.

On July 14, 2017, the parties advised the Hearing Examiner that they had "entered into a negotiated settlement of the matter" and that they would file a dismissal motion as soon as they had worked out "some minor details." Docket No. 14. On August 21, 2017, the parties' jointly

filed an executed Stipulation of Dismissal stating that they “hereby stipulate to the dismissal of this case, with prejudice.” Docket No, 16.

Section 2A-10 (a) of the Montgomery County Administrative Procedures Act provides in pertinent part that “any decision stipulated to or consented to by the parties need only be reflected by an appropriate written order or consent decree.” As provided in Montgomery County Code § 27-7 (i), “[t]he Case Review Board must issue a final decision on a complaint according to Section 2A-10, this Chapter and Commission rules.”

Section 2A-10 (g) of the Montgomery County Administrative Procedures Act provides:

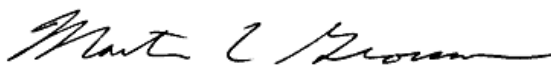
(g) Informal disposition. Where appropriate to the nature of the proceedings and the governing laws, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order or default.

The parties’ jointly executed Stipulation of Dismissal is an appropriate “informal disposition” of the case as provided in Section 2A-10 (g), and as a result, there is no reason to conduct a formal hearing. Therefore, the Hearing Examiner accepts the parties’ Stipulation of Dismissal and all other previously filed documents into the administrative record and hereby closes the record.

Since the Hearing Examiner does not have the authority to issue a final decision on behalf of the Commission or its Case Review Board, the Hearing Examiner is returning the case file to the Board with the recommendation that the Board accept the parties’ Stipulation of Dismissal, and dismiss the Complaint with Prejudice.

Dated: August 23, 2017

Respectfully submitted,



Martin L. Grossman
Hearing Examiner
Director, Office of Zoning and Administrative Hearings

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